

CONSTANTINE & PARTNERS

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RECEIVED

MAY - 9 1996

May 9, 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Suite 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: *In re Applications of Liberty Cable Co., Inc. For Private
Operational Fixed Microwave Service Authorization and
Modifications (WT Docket No. 96-41)*

Dear Mr. Caton:

We are co-counsel, with Wiley, Rein & Fielding, in the above-captioned matter, representing Bartholdi Cable Co., Inc., formerly known as Liberty Cable Co., Inc. ("Liberty"). We are writing to inform the Federal Communications Commission (the "Commission") that certain filings which should have been made under seal in accordance with an interim confidentiality agreement were not, and we thus request that the Commission treat these filings as having been made under seal. Given the confidential nature of the information at issue, this request is of an urgent nature and we respectfully ask that the Commission inform us of its intended action as soon as possible.

As previously set forth in Liberty's April 22, 1996 letter to the Commission (a copy of which is attached hereto for your reference), Liberty has asserted confidentiality over certain of its responses to discovery requests, including interrogatories, propounded in this matter. Therefore, the letter stated that Liberty would withhold filing of its Responses and Objections to the Wireless Telecommunication Bureau's (the "Bureau's") First Set of Interrogatories until such

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Mr. William Caton

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time as the parties concluded the negotiation of a Stipulated Protective Order. The parties have not yet finished this process. Accordingly, Liberty has not filed its Responses and Objections to the Bureau's First Set of Interrogatories. In the interim, the parties have agreed to keep confidential all disclosed documents and information until the execution of a final confidentiality agreement.

Liberty has inadvertently filed supplemental responses to the Bureau's interrogatories without requesting that the responses be filed under seal, in accordance with the parties' interim agreement. The Bureau has also recently filed documents containing Liberty's responses which should be kept confidential and not be made part of the public record through the Bureau's filing.

To prevent any of Liberty's confidential information from being placed in the public record, we respectfully request that the Commission immediately treat all of the following submissions as having been made under seal:

- 1) Liberty's April 26, 1996 Supplemental Responses to the Bureau's First Set of Interrogatories;
- 2) Attachments 2 and 3 of the Bureau's April 29, 1996 Motion to Compel Liberty to Respond to Interrogatories;
- 3) Liberty's May 3, 1996 letter to the Bureau supplementing its Supplemental Responses; and
- 4) Exhibits 2 and 3 of the Bureau's May 7, 1996 Comments on Time Warner's Motion to Enlarge.

We have contacted the Bureau and requested that they join in this application to the Commission. The Bureau's position is that it has no objection to Liberty's submissions (items 1 and 3) being deemed to be filed under seal, consistent with Liberty's April 22, 1996 letter. As to the Bureau's submissions (items 2 and 4), the Bureau states that it has no objection to the exhibits being deemed filed under seal, rather than the Bureau's entire pleading being filed under seal. The Bureau further states that in joining this application, it takes no position as to whether the information deemed by Liberty to be confidential is in fact confidential.

In order to avoid any unnecessary motion practice, we respectfully request that the Commission immediately deem the foregoing filings as having been made under seal pursuant to

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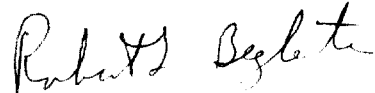
Mr. William Caton

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the parties' interim agreement. Please do not hesitate to contact me with your questions or comments. We appreciate your prompt attention to this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert L. Begleiter".

Robert L. Begleiter

enc.

cc: Hon. Richard L. Sippel (by hand)
Joseph Weber
Katherine Power
Mark Keam
R. Bruce Beckner
Christopher A. Holt
Michael Baker
(all via facsimile)

DUPLICATE

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Dear Mr. Caton:

We are co-counsel, with Wiley, Rein & Fielding, in the above-captioned matter, representing Bartholdi Cable Co., Inc., formerly known as Liberty Cable Co., Inc. ("Liberty"). Pursuant to 47 C.F.R. § 1.323, we have filed an original and three copies of Liberty's interrogatories and responses, served upon the parties thus far in this proceeding, with one exception for the reasons noted below.

We have served Liberty's Responses and Objections to the Wireless Telecommunications Bureau's First Set of Interrogatories pursuant to an interim confidentiality agreement. However, we have not filed these interrogatory responses, because they contain information which Liberty considers confidential and proprietary. The parties are currently negotiating an appropriate confidentiality order. Liberty intends to file the foregoing interrogatory responses upon either the satisfactory conclusion of the negotiation of a confidentiality order or the entry of an appropriate protective order so that Liberty can file its confidential responses under seal.

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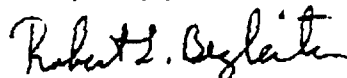
Mr. William Caton

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April 22, 1996

Please do not hesitate to contact me with any questions or comments you may have regarding this issue.

Very truly yours,



Robert L. Begleiter

cc: Joseph Weber
Katherine Power
Mark Kearn
Arthur H. Harding
R. Bruce Beckner
Christopher A. Holt
(all via facsimile)